

MORTGAGE OF RAILROAD CARS

THIS MORTGAGE, made as of this 17th day of June, 1970, by and between A.A. MORRISON CO., INC., Mortgagor, a New York corporation with its office and principal place of business at 120 Delaware Avenue, Buffalo, New York, and MARINE MIDLAND TRUST COMPANY OF WESTERN NEW YORK, a New York Banking Corporation, with its office and principal place of business at 237 Main Street, Buffalo, New York, Mortgagee.

WHEREAS, pursuant to a certain Loan Agreement dated as of June 17, 1970 (herein called the "Loan Agreement"), the Mortgagee has agreed to lend to the Mortgagor sums of money up to but not exceeding the principal amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000),

W I T N E S S E T H :

That the Mortgagor does hereby grant, bargain, sell and release unto the Mortgagee, its successors and assigns forever, all and singular the following described properties, rights and interests and all of the estate, right, title and interest of the Mortgagor in the railroad cars and other properties described on Schedule A, annexed hereto, whether now owned or hereafter acquired, together with all accessories, equipment, parts and appurtenances appertaining or attached to any of the railroad cars described in Schedule A hereto, whether now owned or hereafter acquired, and all substitutions, renewals and replacements of and additions, improvements, accessions, and accumulations to any and all of said railroad cars, including all additions thereto which

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are now or shall hereafter be incorporated therein, together with all the rents, issues, income, profits and avails thereof, all of which railroad cars, other properties, rights and interests hereby transferred, conveyed and mortgaged or intended so to be are hereinafter referred to as "Cars".

SUBJECT, HOWEVER, to all the rights, title and interest of the AKRON, CANTON & YOUNGSTOWN RAILROAD COMPANY (herein called the "Lessee"), in and with respect to said Cars arising under that certain Lease of Railroad Cars, dated as of June 4, 1970 between A. A. MORRISON CO., as Lessor, and said Railroad, as Lessee.

TO HAVE AND TO HOLD the above granted and described property unto the said Mortgagee, its successors and assigns forever.

PROVIDED, ALWAYS, and upon the express condition that if the Mortgagor, its successors and assigns shall, while no default exists under any of the provisions of Article II of the Loan Agreement, well and timely pay or cause to be paid to the Mortgagee, its successors or assigns, the above mentioned sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000), the indebtedness incurred under the Loan Agreement, with all interest thereon and any and all additional sums payable under the provisions of the Loan Agreement and of this Mortgage, all in accordance with the terms of the Loan Agreement, then this mortgage shall be void, otherwise to remain in full force and effect. If such payment in full is made by the Mortgagor while any such default exists and all such defaults are subsequently corrected by the Company, the Company shall be entitled to have this mortgage discharged.

This mortgage is given and intended as a collateral and continuing security for the payment of all indebtedness heretofore or hereafter incurred by the Mortgagor to the Mortgagees.

whether such indebtedness shall at any time or from time to time have been reduced or paid in full and thereafter increased or reincurred and whether such indebtedness may at any time or from time to time exceed the total obligations incurred by the Mortgagor under the Loan Agreement, and no renewal of, or extension of time of payment of any obligation or evidence of any indebtedness or any part thereof, and no agreement not to sue or release or discharge of any persons liable therefor or thereon, or release or exchange of other collateral or any act or thing whatsoever, save payment as provided in the next preceding paragraph of this mortgage, shall diminish, discharge, impair or affect this mortgage or the lien thereof or the security afforded thereby.

AND, the Mortgagor covenants with the Mortgagee that upon the happening of any event of default as defined in Article VI of the Loan Agreement, the Mortgagee's rights and remedies with respect to the Cars shall be those of a secured party under the Uniform Commercial Code and under any other applicable law, as the same may from time to time be in effect, in addition to those rights granted herein. Without in any way requiring notice to be given in the following manner, the Mortgagor agrees that any notice by the Mortgagee of the sale, disposition or other intended action hereunder or in connection herewith, whether required by the Uniform Commercial Code or otherwise, shall constitute reasonable notice to the Mortgagor if such notice is mailed by certified or registered mail, postage prepaid, at least ten (10) days prior to such action, to Mortgagor's address specified above

The Mortgagor agrees to give such further notice of any sale or other disposition to any other person or corporation or to the public generally as it may believe desirable or as may be required by law. The proceeds of any sale, or other disposition after deduction all expenses of the taking, keeping and sale of the Cars including without limitation any and all expenses incurred by the Mortgagee in any legal proceeding which it may institute for the recovery and possession of such Cars (herein called the "Net Proceeds") shall be applied to the payment of the Indebtedness hereby secured and the Mortgagor agrees to pay any deficiency. The Mortgagee may purchase at any such sale in the same manner and to the same effect as a person not interested therein. In no event shall the Mortgagee be required to have the Cars present at the place of sale or comply with any other provisions of law respecting foreclosure of liens either in the State of New York or elsewhere.

The Mortgagee is hereby appointed attorney-in-fact of the Mortgagor with full power of substitution to execute and deliver to any purchaser aforesaid, and is hereby vested with full power and authority to make, in the name and on behalf of the Mortgagee, a good conveyance of the title to each of the Cars so sold. In the event of any sale of any of the Cars, under any power herein contained, the Mortgagor will, if and when required by the Mortgagee, execute such form of conveyance of the Cars as the Mortgagee may direct or approve.

This Mortgage and all covenants, powers, and rights herein contained shall bind and shall inure to the benefit of the parties and their respective successors and assigns.

The terms of this Mortgage and all rights and obligations hereunder shall be construed and interpreted in accordance with the laws of the State of New York in which state it has been executed and delivered.

IN WITNESS WHEREOF, each of the parties hereto has caused this instrument to be signed by its duly authorized officers and its corporate seal to be hereunto affixed as of the day and year first above written.

(Corporate Seal)

A. A. MORRISON CO., INC.

By

Julian L. Morrison
President

ATTEST:

W. H. Rindner
Asst. Secretary.

(Corporate Seal)

MARINE MIDLAND TRUST COMPANY OF
WESTERN NEW YORK

By


Wm. J. Williamson
Vice President

ATTEST:

Robert M. Mital
Asst. ~~Secretary~~
Vice President

STATE OF NEW YORK)
) SS:
COUNTY OF ERIE)

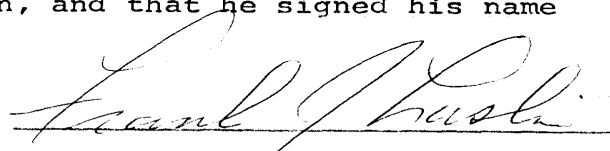
On this 17 day of June 1970, before me personally came Julian L. S. Morrison, to me personally known, who being by me duly sworn, says that he resides at 157 Deerhurst Park Blvd., in the Town of Tonawanda, New York; that he is the President of A. A. MORRISON CO., INC., the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name by like order.



Notary Public, State of New York
In and for the County of Erie
Commission Expires March 30, 1972

STATE OF NEW YORK)
) SS:
COUNTY OF ERIE)

On this 17 day of June 1970, before me personally came William J. Williamson Jr., to me personally known, who being by me duly sworn, says that he resides at 4228 Lower River Road, Town of Lewiston, New York; that he is a Vice President of MARINE MIDLAND TRUST COMPANY OF WESTERN NEW YORK, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.



Notary Public, State of New York
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SCHEDULE A

One hundred Ninety Six (196) 50 ft 6 in. steel box cars presently leased by THE AKRON, CANTON & YOUNGSTOWN RAILROAD and included in that company's series 3501 to 3700 inclusive excepting cars numbered 3515, 3516, 3586 and 3607 and being the railroad cars leased and to be delivered to AKRON, CANTON & YOUNGSTOWN RAILROAD COMPANY as Lessee, pursuant to that certain Equipment Lease dated as of June 4, 1970, between A. A. MORRISON CO., INC. as Lessor and AKRON, CANTON & YOUNGSTOWN RAILROAD, as Lessee.